

(52)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 335 of 2003

Petitioner

Ruben Minj, aged about 49 years,
S/o Late Budhu Minj, resident of
Village Bhabhri, Tehsil and District
Jashpurnagar, working as Sub
Inspector, Police Station, Sitapur and
on transfer to Surajpur, District
Sarguja (Chhattisgarh)

Versus

Respondents

1. State of Chhattisgarh through the
Secretary, Department of Home
Affairs, D.K.S. Bhawan, Mantralaya,
Raipur (Chhattisgarh)
2. Superintendent of Police, Sarguja
(Chhattisgarh)
3. Professor Gopalram, M.L.A., of
Sitapur Legislative Assembly
Constituency, resident of village and
Post Office Soor, Tehsil Sitapur,
District Sarguja (Chhattisgarh)

Shri S. R. J. Jayaswal, Advocate for the petitioner.

Shri Pankaj Shrivastava, Panel lawyer for the Respondents No. 1 and 2.

ORAL ORDER

(2nd February 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner, who is Sub Inspector of Police was working at Police Station, Sitapur. He was transferred by order dated 20.12.2002(Annexure P/1) to the Police Station - Soorajpur, District- Surguja.
2. The petitioner has filed this petition impugning the transfer order dated 20.12.2002 on the ground of malafide exercise of powers. This Court by order dated 18.2.2003 granted status quo with regard to the posting of the petitioner i.e. Police Station - Sitapur, District- Surguja, as on that date.
3. It is well settled principle of law that the transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted in the interest of the administration and

public. This Court has limited jurisdiction to interfere in the transfer order and this Court in exercise of jurisdiction under Article 226 of the Constitution of India can interfere only in cases of proved malafide, non-competence of the authorities, passing the transfer order and not in conformity with the Rules and Regulations. Be that as it may, in the present case though the malafide has been alleged but not proved. However, in the fact of the case when the petitioner continued to remain posted on the old place of posting from 18.2.2003 till date, it is not necessary to examine the transfer order at this stage. The respondents are at liberty to take appropriate steps in respect to posting the petitioner in the public interest and administrative exigency. However, in the facts of the case the respondents/authorities are directed not to insist upon compliance of the impugned transfer order.

4. For the reasons stated above, the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur